

Notice of Allowability

Application No.

10/034,350

Examiner

Michail Belyavskyi

Applicant(s)

ZAUDERER, MAURICE

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to paper filed 10/17/2003.
2. ☒ The allowed claim(s) is/are 39-92.
3. ☒ The drawings filed on 17 October 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

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EXAMINER'S AMENDMENT

The Examiner in charge of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Michail Belyavskiy, Ph.D. in Art Unit 1644.

1. The terminal disclaimer filed on October 17, 2003 over the signature of Applicant's representative Eric Steffe disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on pending application number 08/935,377 has been reviewed and is accepted. The terminal disclaimer has been recorded.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment to was given to Examiner F. Pierre VanderVegt in a telephone interview with Helene Carlson on January 22, 2004.

The application has been amended as follows:

IN THE CLAIMS:

In claim 39, lines 11-12 of the claim, the recitation of "those" has been replaced by --floating--, and the recitation of "undergo or have undergone" has been replaced by --are undergoing--.

In claim 46, lines 11-12 of the claim, the recitation of "those" has been replaced by --floating--, and the recitation of "undergo or have undergone" has been replaced by --are undergoing--.

In claim 53, the recitation of "virus" has been replaced by --poxvirus--.

In line 74, the recitation of "helper virus" has been replaced by --avipoxvirus--.

In claim 84, line 4 of the claim, the recitation -- which comprises SEQ ID NO: 6,-- has been added at the end of the line.

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In claim 84, line 5 of the claim, the recitation -- which comprises SEQ ID NO: 7,-- has been added at the end of the line.

In claim 84, line 6 of the claim, the recitation of "and" has been replaced by -- which comprises SEQ ID NO: 8, and--.

In claim 84, line 7 of the claim, the recitation --, which comprises SEQ ID NO: 9-- has been added at the end of the line, prior to the period.

In claim 85, line 2 of the claim, the recitation of "those" has been replaced by --the floating--, and the recitation of "undergo or have undergone" has been replaced by --are undergoing--.

In claim 87, line 2 of the claim, the recitation of "those" has been replaced by --the floating--, and the recitation of "undergo or have undergone" has been replaced by --are undergoing--.

In claim 89, line 2 of the claim, the recitation of "undergo" has been replaced by --are undergoing--.

In claim 90, line 2 of the claim, the recitation of "undergo" has been replaced by --are undergoing--.

In claim 91, line 2 of the claim, the recitation of "undergo" has been replaced by --are undergoing--.

In claim 92, line 2 of the claim, the recitation of "undergo" has been replaced by --are undergoing--.

Claims 93-98 have been canceled without prejudice or disclaimer.

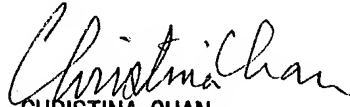
Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michail Belyavskyi whose telephone number is (571)272-0840. If attempts to reach the

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examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached at (571) 272-0841. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (703) 305-3014. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Michail Belyavskyi, Ph.D.
Patent Examiner
January 28, 2004


CHRISTINA CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600